

85 00242

ALAMEDA COUNTY HUMAN RESOURCES AGENCY PROBATION DEPARTMENT

THE JUVENILE JUSTICE SYSTEM IN ALAMEDA COUNTY

By

David C. Melander, Senior Deputy Probation Officer

June, 1974

85 00241
ALAMEDA COUNTY LIBRARY

JAN 2 1975

BUSINESS & GOVERNMENT LIBRARY

AUTHOR'S COMMENTS

Changes in the Juvenile Court Law and in the practices of the juvenile justice system led to the preparation of "The Juvenile Justice System in Alameda County," which is an expanded and updated revision of the earlier paper entitled "The Juvenile Justice System" which has been used in probation training and community education programs since 1969.

The completion of this project required the cooperation of people from the Probation Department and the Welfare Department of the Human Resources Agency, as well as from local police departments and the offices of the District Attorney and Public Defender. I am gratified by the interest shown and assistance provided in the research and preparation of this material.

DAVID C. MELANDER,
Senior Deputy Probation Officer

INSTITUTE OF GOVERNMENTAL
STUDIES LIBRARY

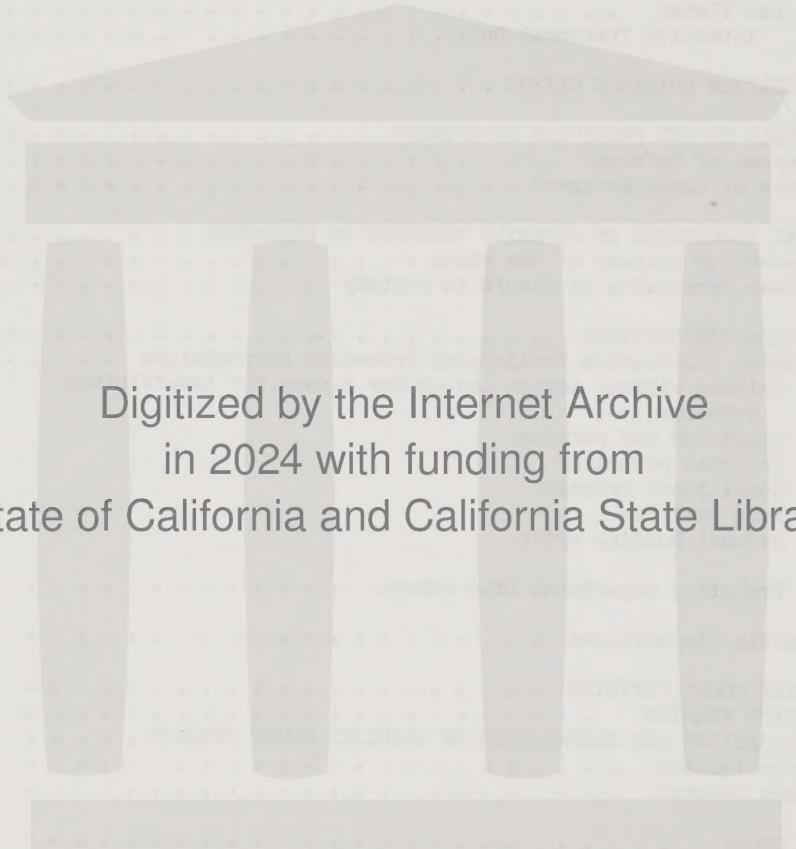
MAR 12 1984

UNIVERSITY OF CALIFORNIA

TABLE OF CONTENTS

BACKGROUND	1
County juvenile court process	
LEGAL BASIS OF JUVENILE JUSTICE SYSTEM PROCESS	2
Temporary Custody (Arrest)	2
Classification of Offenses Related to Juveniles (Minors).	2
600a, b, c, d W & I Code	3
601 and 602 W & I Code	3
RIGHTS OF MINORS	3
PHILOSOPHY AND PRACTICE OF JUVENILE LAW	4
DECLARATION OF WARDSHIP OR DEPENDENCY AND PARENTS' RESPONSIBILITIES. .	5
DIAGRAM OF THE JUVENILE JUSTICE SYSTEM	6,7
POLICE	8
POLICE DISPOSITIONS	8
Criteria for Determining Disposition	8
Diversion	8
Reprimand and Release	9
Notice to Appear (NTA)	9
Delivery of Minor to Juvenile Hall or Probation Center	10
WELFARE DEPARTMENT	10
(600a, b, c, d W & I Code)	
Investigations	10
Supervision	11
Snedigar Cottage	11
PROBATION DEPARTMENT	11
APPOINTMENT OF PROBATION OFFICER	11
ORGANIZATION OF PROBATION DEPARTMENT SERVICES TO JUVENILES	12
JUVENILE DIVISION	12
Chart of Juvenile Division	14
Juvenile Investigation Section	12
Juvenile Supervision Section	12
Hayward-Fremont Section	13
Special Programs Section	13
Custody Investigation/Supervision Unit.	13
Family Crisis Intervention Unit	13
Placement Unit.	15
Transportation Unit	15

INSTITUTIONS DIVISION	15
Juvenile Hall	16
Weekend Training Academy	16
Chabot Ranch	16
Senior Boys' Camp	17
Las Vistas	17
Intensive Treatment Unit	18
PROBATION GUIDANCE CLINIC	18
REFERRALS TO THE PROBATION DEPARTMENT	18
Sources of Referral	18
Types of Cases Referred	19
INITIAL PROCESSING OF JUVENILE REFERRED TO PROBATION	19
Custody or Release of the Minor	19,20
Intake Processing of Minors in Custody	21
PROBATION DISPOSITIONS	22
General Alternative Preliminary Probation Dispositions	22
Release without action and matter closed for insufficient evidence	
Reprimand and warning	
Informal probation	
Conditional release	
File petition	
Request holding order	
Probation Department Drug School	22
Traffic dispositions	23
JUVENILE COURT PETITION	23
DETENTION HEARING	24
INVESTIGATIONS AND PREPARATION OF JUVENILE COURT REPORTS	25
Investigation	25
Court Reports	26
JUVENILE COURT	26
PHILOSOPHY	26
JUVENILE COURT JUDGE	27
Referee	
Traffic Hearing Officer	
JUVENILE JUSTICE COMMISSION	27
DELINQUENCY PREVENTION COMMISSION	28
LEGAL COUNSEL AND JUVENILE COURT	28
JURISDICTION OF THE JUVENILE COURT	29



Digitized by the Internet Archive
in 2024 with funding from
State of California and California State Library

<https://archive.org/details/C124879439>

JUVENILE COURT HEARING	30
Jurisdictional Hearing	30
Dispositional Hearing	31
Types of Court Dispositions	
Sealing of Records	32
FOOTNOTES	34

BACKGROUND

Typically, citizens of Alameda County and the rest of the nation for that matter, tend to look at the criminal justice system--police, courts, and corrections--as something that has power and influence on our society but is too complicated to be understood. Recognized citizen ignorance concerning the criminal justice system, coupled with the rise in commission of serious crimes and the continued complaint of some people that the system is treating them unfairly, has caused the general public to seek more information. Probably the most mysterious part of the criminal justice system to most people is the juvenile justice system which is the subject of this brochure. At every level--police, courts and corrections (rehabilitation programs)--efforts have been made over the years to develop special approaches to dealing with young people. The purpose of this brochure is to acquaint the reader with the juvenile justice system of Alameda County.

In Alameda County the police process for juveniles is carried out by city police, county sheriff, and state highway patrol, as well as other law enforcement personnel including city and county park rangers. The county juvenile court process is the responsibility of the Alameda County Juvenile Court which holds hearings at the Probation Center in Oakland and at the Juvenile Hall in San Leandro.

The county correctional process for juveniles includes both private and public agencies, but the programs to investigate and supervise most juveniles referred to the juvenile justice system are through departments of the Alameda County Human Resources Agency. The Human Resources Agency includes the Probation Department, the Welfare Department, and the Human Relations Department. The Probation Department is the county agency responsible for working with juvenile law violators which account for the majority of juvenile referrals. The Welfare Department is responsible for working with children who are referred due to improper treatment by parents or because they do not have a proper place to live. The Human Relations Department is not officially assigned juvenile justice responsibilities but it does provide services to youth within the juvenile justice process through its job training programs.

The Alameda County District Attorney and Public Defender also provide important services to the juvenile justice system. Deputy district attorneys have offices at the Probation Center and at Juvenile Hall. These lawyers provide legal expertise to assist the probation officer in determining if sufficient evidence exists to prove a law violation has occurred, to assist when necessary in filing juvenile court petitions (see page 23) and in certain matters to represent the probation officer in presenting evidence before the Juvenile Court.

The Public Defender provides a special staff of lawyers to defend minors appearing before the Juvenile Court. Juveniles who need a lawyer and cannot afford to hire one will be helped by one of the assistant public defenders located in offices at the Probation Center in Oakland or at the Juvenile Hall in San Leandro (see page 28). The Public Defender indicates that juvenile matters are considered extremely important and assigns only trained and experienced lawyers to work in Juvenile Court.

One of the confusing aspects of discussing the administration of juvenile justice or the misconduct, criminal or not, of young people is that "juvenile" and "youth" are not precise definitions of categories of people. People are legally juveniles in most states until they pass their eighteenth birthdays, but in some states they stop being juveniles after they turn 16 or remain juveniles until they turn 21.¹ In California a person is considered a juvenile or minor if he is under the age of 18.

LEGAL BASIS OF JUVENILE JUSTICE SYSTEM PROCESS

The legal basis for the process, procedures, and practices that have been developed to handle the juvenile offender from the time of the commission of the offense until a final disposition is made, appears in the Welfare and Institutions Code (W & I Code) for the State of California as passed and revised by the State Legislature.

Temporary Custody (Arrest)

The legislation specifically gives peace officers authority to take into temporary custody any minor under 18 without a warrant when there is "reasonable cause for believing that the person comes under Sections 600, 601, and 602 of the Welfare and Institutions Code (see below)" or "is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization or other remedial care." This taking into custody may be for a violation of any federal, state, county, or municipal statute (felony or misdemeanor) (Section 625, 625.1 and 625.5 W & I Code).

In Alameda County, the Board of Supervisors has delegated to the Welfare Department the responsibility of working with all (600 W & I) dependent child cases. The probation officer or child welfare worker in Alameda County has, therefore, been delegated the power to take into temporary custody without a warrant a person under 18 who has previously been declared a dependent child (600 W & I Code) and whose circumstances meet the conditions for temporary custody; and whose circumstances again necessitate intervention for the protection of the minor.

It should be noted that nowhere in the W & I Code is the term arrest used, except Section 663 which refers to a warrant issued by the court. The Code refers to a minor being taken into "temporary custody," and therefore it appears that minors are not in the technical sense arrested.² In practice, however, when the juveniles are taken into custody and deprived of their freedom, they are considered by almost everyone to be "under arrest." In fact the police usually tell the juveniles they are "under arrest" before taking them into custody.

Classification of Offenses Related to Juveniles (Minors)

The W & I Code classification of offenses listed below under the jurisdiction of the Juvenile Court will ultimately be disposed of by the Juvenile Court

should they not be resolved by the police or probation officers. Minors who fit the description of 600a, b, c, or d, may finally be adjudged to be dependent children of the court.

- 600a (W & I) The minor is in need of proper and effective parental care or control and has no parent or guardian, or has no parent or guardian willing to exercise or capable of exercising such care or control, or has no parent or guardian actually exercising such care or control.
- 600b (W & I) The minor is destitute, or who is not provided with the necessities of life, or who is not provided with a home or suitable place of abode.
- 600c (W & I) The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.
- 600d (W & I) The minor whose home is an unfit place for him by reason of neglect, cruelty, depravity, or physical abuse of either of his parents, or of his guardian or other person whose custody or care he is in.

Juveniles who meet the description of the sections listed below may ultimately be declared wards of the Juvenile Court.

- 601 (W & I) The minor who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, custodian or school authorities; or is beyond the control of such persons; or is an habitual truant from school within the meaning of any law of this state or who from any cause is in danger of leading an idle, dissolute, lewd, or immoral life (the last underlined clause is presently on appeal as Gonzales versus Milliard, U. S. District Court, District of California No. 50424 SAW (1971) held it is unconstitutional).
- 602 (W & I) The minor violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime or who after having been found by the Juvenile Court to be a person described by Section 601, fails to obey any lawful order of the Juvenile Court.

RIGHTS OF MINORS

It is important at this stage to make clear the fact that at each step of the juvenile justice system--police, probation, courts--the minors have the right to be represented by a lawyer and if they cannot afford one, or their parents will not or cannot secure one, the public defender or private attorney will be appointed by the court. Case law also indicates that if children ask to see their parents, it is the same as invoking the Fifth Amendment and further questioning is inadmissible unless the parents are present (People vs. Burton, 6c. 3d 375, 12-28-71).

When minors first come in contact with police, probation or the court for 601 or 602 referrals, they must, like adults, be informed of their constitutional rights that (1) they may be silent and do not have to say anything about their actions; (2) they have the right to have an attorney with them during all questioning (see page 28, legal counsel); (3) if they cannot afford an attorney, that the court will appoint the public defender; (4) that any statement they make can and will be used against them in a court of law. The above warnings are an absolute prerequisite to interrogation. However, the minors (defendants) may waive or give up their rights to remain silent and to have the assistance of counsel after the warnings are delivered, but only if they ask for the waiver voluntarily, specifically, knowingly and intelligently. Mere failure to ask for a lawyer, silence in the face of the above warnings, or answering some questions is not a waiver. If there is no record of the waiver, or no allegations and evidence of a waiver, then there has been no waiver (*Miranda v. Arizona*, 86 Supreme Court Reporter 1602 (1966)). If there has been no waiver then any statement given by the minor cannot be used in court. Once minors refuse to waive or give up their rights, the refusal stands until they initiate a willingness at a future time to waive those rights. It should be noted that minors taken into custody for 601 and 602 violations and placed in confinement must be allowed the following:

1. To make two complete phone calls, one to a parent, guardian, responsible relative or employer; and the other to an attorney (627, 627.5 W & I Code).
2. When delivered to the probation officer, the probation officer shall immediately advise the minor and the minor's parents of the entitled constitutional rights discussed above (in case law--regarding Donald Leach, 21 Cal. App. 3d 596, 1971).

PHILOSOPHY AND PRACTICE OF JUVENILE LAW

The basic philosophy governing the handling of juveniles in California is set forth in Section 502 of the W & I Code. The purpose of Juvenile Court law is to "secure for each minor under the jurisdiction of the Juvenile Court such care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety and protection of the public cannot be adequately safeguarded without removal; and, when the minor is removed from his own family to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents."

Youth 14 Years and Under

The law makes additional specific requirements regarding youth 14 years old and under and this is based on the premise that the younger offenders are less capable of distinguishing between right and wrong. The law holds that children under 14 are not capable of committing a crime unless it can be clearly shown that they knew what they were doing was wrong (Section 26 Penal Code of California). "There is some possibility that minors below a certain age (not yet determined) are too

young to understand these admonitions and thus cannot make an intelligent waiver of their rights. Thus, any admissions or confessions they make cannot be introduced as evidence at a hearing."³ Case law also holds that children under age seven are incapable of committing a crime. Thus, the only arrests for youths that can be made for children under seven are for protective custody, 600a W & I Code.⁴

Law Violations by Minors are not Considered Crimes

The law further indicates that a proceeding in Juvenile Court shall not be deemed a criminal proceeding, nor shall an order adjudging a minor to be a ward of the Juvenile Court be deemed a conviction of a crime for any purpose (503 W & I Code).

DECLARATION OF WARDSHIP OR DEPENDENCY AND PARENTS' RESPONSIBILITIES

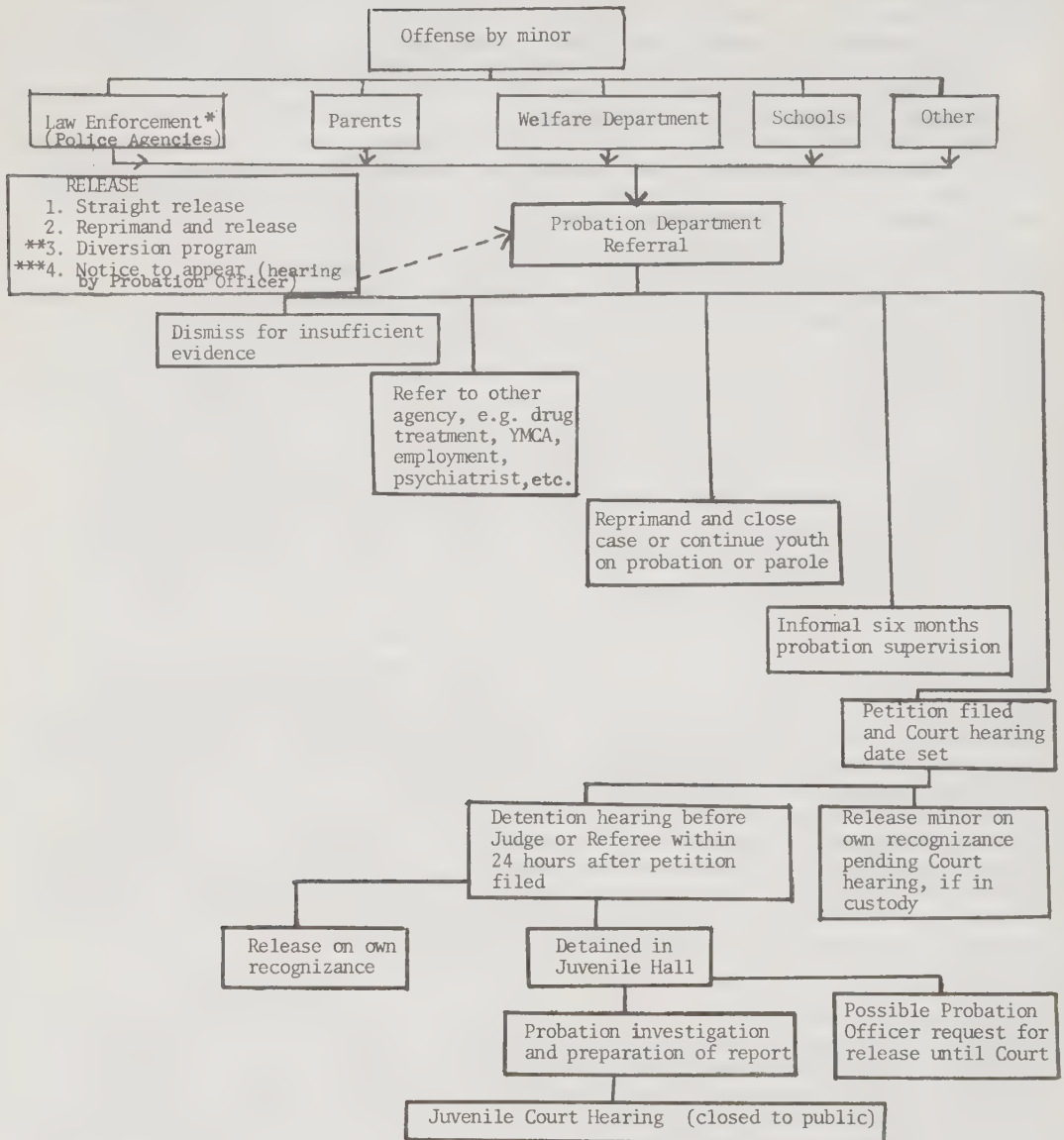
Declaration of wardship gives the court the power to remove minors from their homes which cannot be done with a non-ward (903 W & I Code). When the court declares a minor to be a ward of the court or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by any parent or guardian and shall clearly set forth all limitations, but no ward or dependent child shall be taken from the physical custody of the parent or guardian unless the court finds one of the following facts: (a) that the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor; (b) that the minor has been tried on probation in such custody and has failed to reform; (c) that the welfare of the minor requires that his custody be taken from his parent or guardian (726 W & I Code).

Wardship does not take responsibility for the youth away from his parents or guardians and they are asked to pay the county a certain portion of the cost necessary to maintain their child (903 W & I Code). The father, mother, spouse, or other person liable for the support of a minor person is liable for the cost of maintenance in any county institution ordered by the court. The same persons are liable for the cost to the county of legal services rendered to the minor by the public defender or a private attorney appointed by the court if so ordered by the court (903 W & I Code). The financial officer appointed by the Board of Supervisors determines the amount of reimbursement to be paid by parents and may reduce, cancel, or remit the amount to be paid if proof is shown that they are unable to pay for legal services, care, support, and maintenance (905 W & I Code).

DIAGRAM OF THE JUVENILE JUSTICE SYSTEM OF ALAMEDA COUNTY

The Juvenile Justice System of Alameda County is complex but it is hoped that the diagrams on pages 6 and 7 will make it more clear and understandable. The diagram of the Juvenile Justice System traces the processing of young people in that system from the time of an offense until disposition. Due to the fact that when dealing with law and the courts, there are always exceptions to the rule, it is not suggested that the following diagrams or discussion will include each process possibility, and yet, it will cover the steps most often taken.

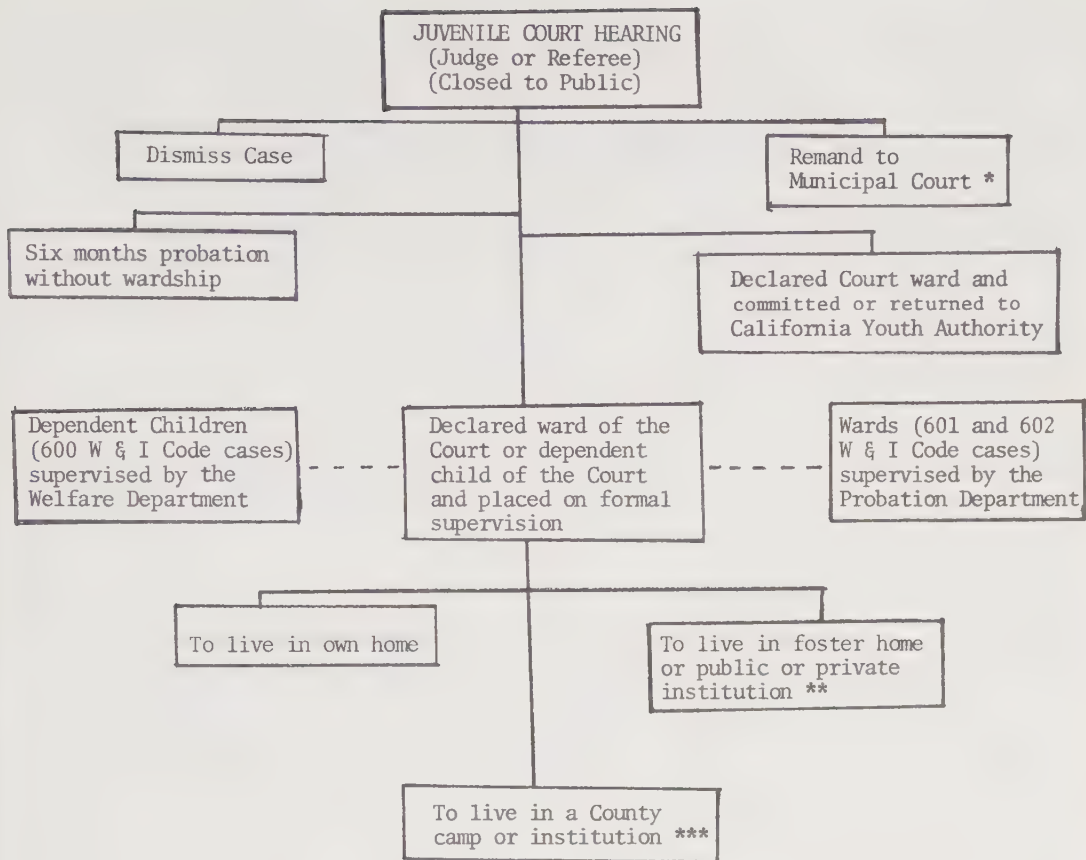
JUVENILE JUSTICE SYSTEM



* See page 8

** See Page 8

*** See Page 9



* See Page 29

** See Page 13 (Placement Unit)

*** See Page 15

POLICE**

The police are often referred to as the "front line in the defense against crime." The police patrolman is generally the first contact the young person (or adult) has with the law enforcement and court system. A juvenile makes his first step into the juvenile justice system when he commits an offense or is involved in some kind of community misconduct which is observed and reported. That offense may be witnessed by parents, school officials, other youngsters or adults, or a law enforcement officer. Generally, when someone other than a police officer witnesses an offense, they report it to police and a patrolman or juvenile officer comes to talk to the minor and begins the investigation. Sometimes, the minor will be brought directly to the Probation Department without contacting the police. This will be discussed later.

POLICE DISPOSITIONS:

Police dispositions include reprimand and release, the referral to diversion programs as discussed below, the issuance of a Notice to Appear (NTA) before the Probation Officer, and, ultimately in serious cases, the custody of the Probation Officer.

Criteria for Determining Disposition

The following factors or problem areas are considered when deciding the most suitable police disposition. This disposition will determine whether the police will hold in custody or release the minor. (1) seriousness of offense; (2) previous offenses; (3) attitude and cooperation of the minor and the minor's parent; (4) willingness of the victim (complainant) to cooperate with the investigation; (5) status of the investigation (will release of person possibly result in evidence being destroyed?). Is there a need for identification line-up; (6) age of person; (7) probation or Youth Authority status.⁵

Diversion

The trend throughout the juvenile justice system is, whenever possible, to dispose of juvenile matters at the earliest possible point. This process is called diversion and attempts to help youths avoid referral to the Juvenile Court. The goal of diversion is to limit where possible youths' involvement with the justice system and keep them from being "branded" as delinquent, or from being exposed unnecessarily to more serious offenders. In this process, the police try to handle

**This section discusses law enforcement functions and practices which generally apply in most police agencies that operate in Alameda County. Many law enforcement agencies provide special and unique services to youth with whom they come in contact.

all possible matters at their level before referral to probation. Probation in turn then tries to dispose of suitable matters before a court appearance becomes necessary. In the spirit of the diversion effort, police agencies in Alameda County have, or are beginning to expand their services to include youth bureaus, juvenile bureaus and community youth service officers to offer counseling and guidance to delinquent minors and children with delinquent tendencies and their families. Some police agencies are developing referral services to public and private agencies as an alternative to referral to juvenile probation. Typical referrals are to recreation centers, family counseling programs, school counselors, and drug treatment programs.

Reprimand and Release

Whether the policeman observed the offense or it was reported by someone else, the officer must first advise youths accused of misconduct of their Constitutional Rights (see page 4) if initial investigation tends to indicate minor is indeed a suspect. The officer will then question the youth at the scene and make a brief investigation to determine the seriousness of the situation. If the officer finds that the circumstances make it clear that the elements of a specific offense are not sufficient enough to proceed further or it is a minor offense, the youth is released at the scene. Usually in this situation the officer makes out an official reprimand and release form. The Oakland Police use the reprimand and release "when the officer feels that the case should be disposed of at the scene without an official departmental record other than a field contact card which must in all cases clearly indicate whether or not the elements of an offense were actually present."⁶ The officer can also make out a reprimand and release form for a youth initially taken into custody and already delivered to the police department where further investigation reveals a reprimand and release is in order, and where the officer believes the juvenile offender should not be brought to the attention of the Juvenile Court. Particular consideration must be given to the offender's past record. This disposition will not usually be rendered if the minor's past record indicates an apparent need for professional guidance. There are rare occasions, however, when a juvenile who has committed a felony will be officially reprimanded and released. Age and the presence of criminal intent are important factors to consider in such cases.

Notice to Appear (NTA)

The Notice to Appear is issued when police feel the case is not suitable for a police disposition and where detention is not deemed necessary or may not be permitted. The Welfare and Institutions Code specifies a minor will not be held unless it is of immediate and urgent necessity for the protection of the minor or the person and property of others, or that the minor is likely to flee or has violated an order of the court (628 W & I Code). The NTA may be issued on the street, however, several police agencies in Alameda County indicate that most often a youngster is brought to the police department before being issued an NTA. The NTA is issued not only for relatively serious types of offenses where court appearance seems likely (misdemeanor auto theft or "joy riding," burglary, petty theft, some drug arrests, occasionally auto theft) but also for cases of less serious misconduct (malicious mischief, disturbing the peace and fighting).

The NTA is considered by police to be an arrest in the same manner as if the minor were placed in custody at the Probation Center or Juvenile Hall. The police prepare their arrest papers and crime reports and officially register the matter in their files as an arrest. An NTA is generally issued with an open appointment to be set later by the probation officer. The offender is usually scheduled for a hearing by a deputy probation officer within one or two weeks. The youth will appear with a parent or guardian for the interview at which time a decision will be made as to further action. The NTA is also issued by police in a case where a youth suspected of misconduct cannot be located and the probation officer is requested to ask the Juvenile Court Judge to issue a warrant for the youth's arrest.

Delivery of Minor to Juvenile Hall or Probation Center

As a general rule, any juvenile, who has committed a public offense, may be delivered in custody to the Probation Department where an adult under the same circumstances would be subject to arrest and confinement. The following circumstances usually result in a minor being delivered in custody to Juvenile Hall or the Probation Center: a violent misdemeanor and/or felony; a repeat offender; a case where immediate release of the minor would impede the successful investigation; a case where a minor has violated a probation or parole order; and where a minor is in danger of harming self or others. When minors are not released to return to the community, they must be delivered without unnecessary delay to the Probation Department. No authority exists for the police officer to actually "book" a minor into Juvenile Hall or the Probation Center. That discretion is left by law to the Probation Officer (628 W & I Code).

- - - - -

WELFARE DEPARTMENT

The Alameda County Board of Supervisors brought the Welfare Department officially into the juvenile justice system process when under Section 576.5 W & I Code, it delegated all responsibility (investigation, supervision, and protective custody) for cases involving children's dependency matters under Section 600a, b, c, and d of the W & I Code (see page 3) to the Welfare Department.

Child welfare workers, as well as deputy probation officers, are assigned to the Child Protective Services section. This section, which carries out dependent child services, is under the supervision of the Director of the Children's Protective Services Division of the Alameda County Welfare Department.

Investigations are conducted by deputy probation officers. The cases involve such problems as child neglect and abuse, sexual molestation, inadequate parenting which adversely affects the health or welfare of the minor, parental excessive drinking, poor supervision, parent or child emotional disturbance or mental retardation.

Supervision of minors placed under supervision by the court to reside in their own homes, either as Juvenile Court dependents or on informal supervision, is carried out by child welfare workers. Minors who are declared dependent children of the court and committed to the Welfare Department, for placement, are supervised by child welfare workers in the placement section of the Welfare Department.

The focus in dependency matters is to maintain the children in their own homes. If their health and welfare require out of home placement, the thrust is to return them home as soon as practical and safe to do so. If return home is not possible, permanent planning is then attempted. By law, all dependency matters are reviewed at least annually by the court.

Minors of six years of age and older taken into custody under 600 W & I Code sections are not taken to the Probation Center or Juvenile Hall but delivered to Snedigar Cottage. Minors, infancy through five years of age are placed in Emergency Foster Homes pending disposition of their matters. The Cottage and the Emergency Foster Home program are administratively under the Director of the Children's Protective Services Division of the Alameda County Welfare Department.

Snedigar Cottage is a facility under the direction of the Welfare Department and provides temporary shelter care for children six years and older who are classified under Section 600 of the W & I Code. Under law, these children shall not be brought into direct contact or personal association with any person who is in custody for violation of a law under 601 or 602 of the W & I Code.

Program: The Cottage provides a relaxed environment and offers constructive individual and group activities, a school program, counseling and guidance. Every effort is made to help the children meet the problems of separation from their family. A probation officer or child welfare worker is assigned to each child to develop long-range plans. Subsequent placement of these youth is approved by the Juvenile Court.

PROBATION DEPARTMENT

APPOINTMENT OF PROBATION OFFICER

The position of probation officer is established in the Juvenile Court Law (Section 575 W & I Code). The law states that in any county, the probation officer shall be nominated by the Juvenile Justice Commission and shall be appointed by the Juvenile Court Judge. The law also provides, however, that in counties, such as Alameda County, having charters which provide a method of appointment of the probation officer, that such charter provisions shall control (Section 576 W & I Code). In Alameda County on June 4, 1968, the people voted to amend the Charter of Alameda County to place the probation officer in the classified civil service and to require that appointment by the Juvenile Court

Judge follow a competitive civil service examination. The Civil Service Commission, after establishing a list of candidates for the job of probation officer, submits the top three names to the Juvenile Justice Commission (see page 27) who nominates one person to be approved finally by the Juvenile Court Judge.

The Probation Officer with concurrence of the Alameda County Board of Supervisors may appoint as many deputies or assistants as necessary. The law did not establish the Probation Department but the department grew as more and more people were needed to accomplish the job the legislature gave the probation officer (all staff hired by the probation officer are under civil service status).

ORGANIZATION OF PROBATION DEPARTMENT SERVICES TO JUVENILES

The Probation Department provides services for minors referred under Section 601 or 602 of the W & I Code violations. These services are carried out through the organizational processes of the Juvenile Division and the Institutions Division. (Note that 600 cases are handled through a special process under the Welfare Department, see page 10).

JUVENILE DIVISION:

The Juvenile Division is divided into four sections: Juvenile Investigation, Juvenile Supervision, Hayward-Fremont (staff doing both investigations and supervision) and Special Programs. The chart on page 14 is an attempt to aid the reader in visualizing the Juvenile Division and can be referred to in clarifying the discussion that follows.

Juvenile Investigation Section: The deputy probation officers assigned to the Juvenile Investigation Section make a thorough study of each minor, boy or girl, referred. The deputy studies the facts of each incident and all available information is evaluated to learn the reasons for the child's difficulties. The probation officer then decides on a plan of action best suited for the particular case (see page 22). When court action is considered advisable for the re-direction or protection of a young person, the deputy who is assigned to investigate the case prepares a written report for the court (see pages 25-6). This section serves youth from Northern and Southern Alameda County.

Juvenile Supervision Section: The primary function of the Juvenile Supervision Section is the supervision and counseling of boys and girls and parents. Parents are included because the majority of children who are processed through the Juvenile Court are placed on probation in their own homes but under the supervision of the probation officer. Supervision seeks to protect children and to redirect anti-social behavior. Through interviews, the home calls and visits to community agencies--schools for example--the deputy attempts to help minors develop into useful and productive members of society. To achieve this end, the deputy utilizes casework and counseling techniques. Every effort is made to bring about

a better relationship between parents and children; the placement of minors away from their homes is recommended only when such action is necessary for the minors' own protection or for the protection of the community. These deputies also do investigations and prepare court reports on cases assigned to them (see page 25, Investigation).

Normally, youths are supervised by deputies assigned to the geographic area in which they reside. In this way, frequent contact between the deputy and the minor and the parents is achieved most efficiently. The Juvenile Supervision Section serves boys' and girls' cases in Northern Alameda County and all girls' cases for Southern Alameda County.

Hayward-Fremont Section: This section assists Juvenile Investigation in investigating South County referrals on boys' cases although the primary task is to supervise boys' cases committed to probation from Southern Alameda County.

Special Programs Section: Special Programs Section encompasses the Custody Investigation/Supervision Units, the Family Crisis Intervention Unit, the Placement Unit and the Transportation Unit.

The Custody Investigation/Supervision Unit does not deal with youthful law violators or the Juvenile Court. It works with other departments of the Superior Court and its task is to help the Superior Court resolve disputes between parents over custody, guardianship, and visitation of minors in the best interest of the children.

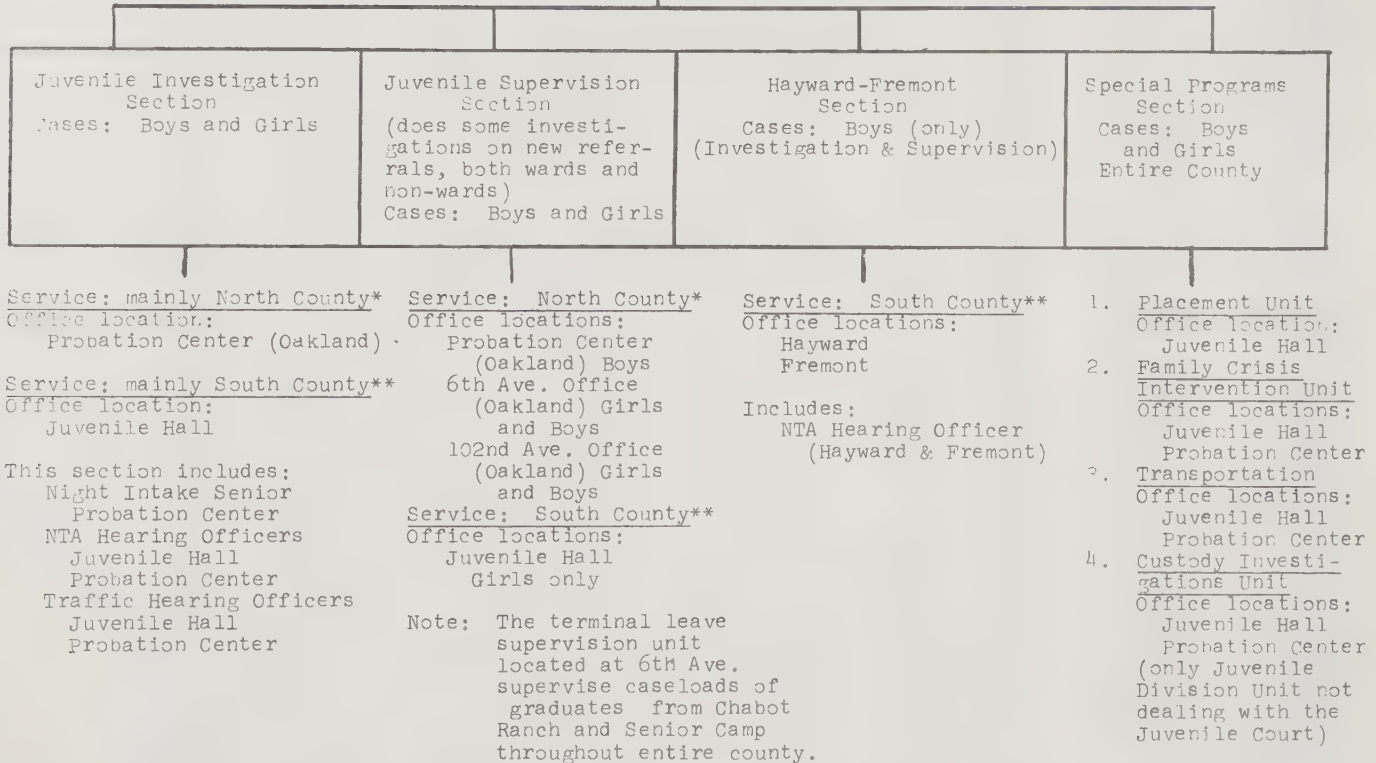
Family Crisis Intervention Unit. The Family Crisis Intervention Unit works with minors and their families at the time of crisis and before the minor must be more formally involved in the juvenile justice system (probation and courts) and usually before the minor commits a violation that must be considered a 602 W & I Code violation (see page 3). It provides intensive casework with the total family where the basic problem appears to be dissension and distress in the family causing severe conflict between the minor and parents or guardian. Primarily the types of cases referred here involve first time offenders booked into Juvenile Hall or the Probation Center for incorrigibility, runaway, truancy (601 W & I Code offenses); those booked under the influence of drugs or alcohol, plus curfew and late hours violations. In an effort to be as available to the public as possible and to include as many family members in the counseling session, the unit is open from 8:00 a.m. to 11:00 p.m., seven days a week plus holidays. Phone referrals are accepted from the individuals in the community, and from private or public agencies (police, Welfare, schools, drug centers, etc.).

The emphasis is on short-term crisis counseling. The primary goal is to prevent delinquency by getting to the root of an individual's problems early enough to facilitate needed change.

Placement Unit. The Placement Unit assists the Juvenile Court in locating suitable living arrangements for minors referred under 601 and 602 of the W & I Code who are removed from the supervision of their parents or guardians by an order of the

JUVENILE DIVISION

DIRECTOR
Office - Juvenile Hall



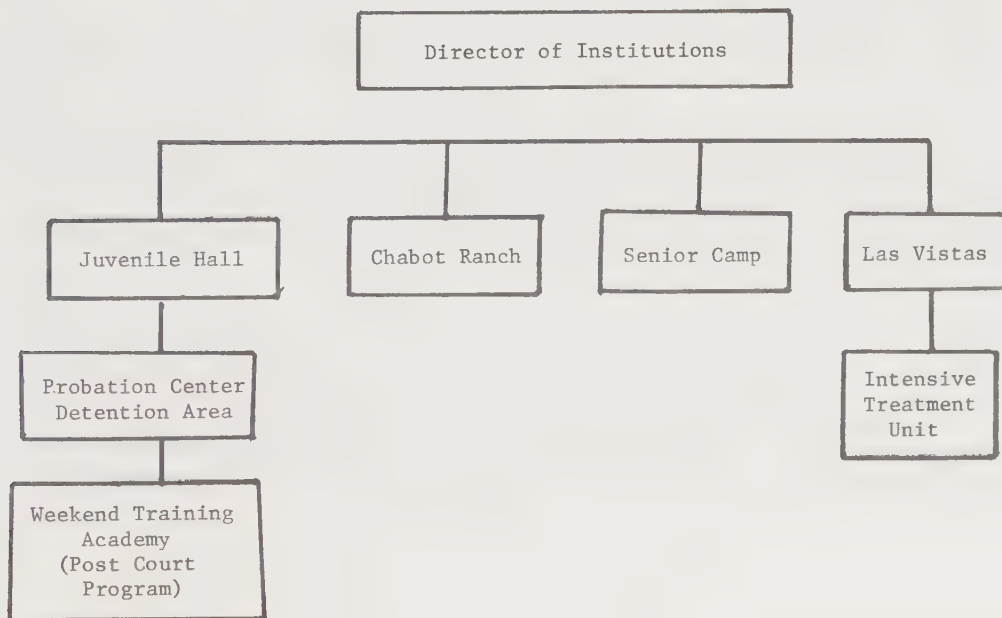
*North County--Oakland, Alameda, Emeryville, Berkeley, Piedmont, Albany
**South County--All cities and unincorporated areas including San Leandro south

Juvenile Court. Following a commitment for placement by the Juvenile Court, the Placement Unit locates suitable placements for wards in relative foster homes, foster homes, group homes, private institutions (licensed by the State Department of Public Health), as well as group care programs and institutions for the mentally defective and the emotionally disturbed. This unit helps other probation units to find help for minors who do not appear to be able to live in their own homes. There are times when the Placement Unit will determine that a minor should not be placed in a foster home or private institution due to a need for strong and close supervision only available in a total institution like the Alameda County Boys' Camp or the California Youth Authority at the state level. The Placement Unit is continually on the lookout for new foster homes and group care programs to meet a continuing need for out-of-home placements. Deputies assigned to the Placement Unit not only place wards of the Court in suitable placements, but also are charged with the supervision of these minors in an on-going effort to assist them in their eventual return home. Cases are reviewed every eleven months by the court to determine the youths' adjustment and development within the placement as well as whether or not a return home is in their best interest.

Transportation Unit. It is made up of several persons whose job is to transport minors between counties, to and from foster homes, airports, medical appointments, et cetera, to the Youth Authority when it is required and other transportation requirements as ordered by the Juvenile Court or Probation Department.

INSTITUTIONS DIVISION:

Institutions Division operates and maintains all County facilities charged with holding minors taken into custody for violation of 601 or 602 of the W & I Code. (As noted earlier, minors who are placed in custody under 600 W & I Code are housed in Snedigar Cottage, which is operated by the Welfare Department).



Juvenile Hall: This facility, staffed by group counselors, is responsible for providing 24-hour temporary care of boys and girls up to the age of 18 years while they await their release to return home, a Juvenile Court hearing, or the carrying out of a court order such as commitment to a foster home, California Youth Authority, Chabot Ranch, etc. Usually, the stay is of short duration; however, a longer period may be required to find an appropriate foster home or other out-of-home placement. The facility has a rated capacity for 112 boys and 80 girls.

Program: The program of Juvenile Hall begins with classification of the youth (age, maturity, behavior, etc.) to determine the best living unit, and also includes schooling, recreation, housekeeping, medical and dental care, religion, discipline, security, observation and counseling,⁷ including services of the Probation Guidance Clinic (see page 18).

The Probation Center detention area, staffed with group counselors, has a rated capacity for 52 boys only. This facility is considered part of the Juvenile Hall program and serves as a temporary detention facility for boys from Northern Alameda County. Boys are held there for short periods, from one to three days, except in unusual circumstances. Boys are transferred as soon as possible after their detention hearing to Juvenile Hall.

Weekend Training Academy Program (Boys Only): The program, administered by group counselors, was established to provide the Juvenile Court with an additional condition of probation for youth committing more serious violations. As an alternative to institutional placement, the youth is assigned a period of commitment (usually eight weekends) which can be reduced by positive attitude and performance. The program hours are 8:00 a.m. to 4:00 p.m. on Saturday and Sunday. Attendance is mandatory and those with unexcused absences are referred to their probation officers for corrective action.

The program, with its main office at Juvenile Hall in San Leandro, has centers in San Leandro, Oakland, Fremont and Pleasanton. All participating youths are covered by County insurance.

Program: The work program involves projects for public and non-profit agencies (i.e. building park benches, making a cement walkway, planting trees). The citizenship program includes classroom instruction (lectures, group discussion, and use of audio visual equipment) on social expectations, health and safety (including drug abuse), value of self-control and study. There is one staff member for every ten boys. Daily reports are completed on each youth's performance.

Chabot Ranch: Chabot Ranch, staffed by deputy probation officers and group counselors, is a minimum security institution for boys 14 to 16 (sometimes 13) years of age who are committed by the Juvenile Court. The facility has a total capacity to serve 70 boys. They participate in either the 24-hour program, planned for 50 boys, or the day care program, planned for 20 boys, and the average length of stay before graduation is four months.

Program: The participants in day care report to Chabot Ranch daily (school days) but continue to live with their families at home. The 24-hour group participates in a total care program providing lodging, meals, medical and dental care in addition to rehabilitative programs which can include services of the Probation Guidance Clinic.

The treatment for youth in both programs includes schooling (under state credentialed teachers), recreation, and guidance counseling (both child and parents) to help resolve problems of attitude and behavioral patterns and assist the boy in making a successful adjustment in the community.

Senior Boys' Camp: Senior Boys' Camp with a capacity for 100 is a minimum security treatment institution staffed by deputy probation officers and group counselors for boys 16 to 18 years of age who are committed to the camp by the Juvenile Court, primarily in lieu of placement in a California Youth Authority institution. The boys placed in the camp are those who appear to have the potential for redirection and are able to profit from the camp work and school program. This 24-hour total care facility provides lodging, meals, medical and dental care in addition to the rehabilitative programs which can include services of the Probation Guidance Clinic. Stay at camp is usually for between four and five months.

Program: The boys receive schooling from state credentialed teachers with the emphasis on raising the level in basic skills such as reading and math. Boys go to school at least on a half-day basis and some complete their work for high school diplomas. A work experience coordinator provides vocational counseling and helps boys locate jobs and become involved in work experience programs. The work program with the East Bay Regional Parks is an important part of the camp process. In addition to the above, the program includes counseling (family, individual, and group) and for selected boys, job training in the community. The main objective is to help the boys return to the community with changed social attitudes and life styles and a desire for self-rehabilitation.

Las Vistas: Las Vistas serves both boys and girls and is a facility staffed by deputy probation officers and group counselors designed to care for, under Court order, a maximum of 24 boys and 24 girls who have demonstrated an inability to adjust in the community while residing in their own homes or who have demonstrated needs that cannot be met in community facilities (foster homes, etc.). Las Vistas is a "total care," 24-hour program providing meals, lodging, medical and dental care.

Program: The youngsters are provided daily schooling (state credentialed teachers) and recreation programs along with intensive individual, group and family counseling focused on resolution of family problems. Coordinated efforts also continue with the Probation Guidance Clinic and the Probation Department Placement Unit to provide diagnostic and treatment assistance and to develop longer-term, out-of-home placement and treatment programs when necessary. It is hoped, however, that the boys and girls in successfully completing the institutional program will develop individual growth and maturity and thereby preclude alternative long-term, out-of-home placements in foster homes or private institutions.

Intensive Treatment Unit (I.T.U.): The director of Las Vistas is administratively responsible for the operation of I.T.U. The Intensive Treatment Unit at the direction of the Court provides diagnostic evaluation and treatment for minors. The majority of the diagnostic commitments are for 90 days with a few cases committed for 30 to 60 days. Although the unit serves mostly boys, some girls are referred to the program for diagnostic evaluation only and are housed in living units on the girls' side of Juvenile Hall. Boys referred to the unit are generally housed in the 20-bed security facility providing 24-hour care. The Intensive Treatment Unit program is staffed with deputy probation officers and group counselors.

Program: The program, through diagnostic services, provides the court with a clearer definition regarding the causes for the minors' misconduct and recommendations regarding appropriate treatment planning. The unit is also designed to provide short-term treatment programs in a secure setting for boys who have demonstrated an inability to function in the community or in an open treatment setting. The boys' programs include accredited school and recreation and house-keeping activities. In that the primary purpose of the unit is diagnostic, emphasis is placed on observing the youth in their activities as well as controlling their behavior. It is essential for the court to know how each boy reacts to and deals with peer problems, parental behavior, authority, classroom, street, etc. The structure and use of time in the unit is, therefore, firm but not rigid.

Contact with parents is strongly supported and regular visiting hours are available. Special visits are also encouraged and arranged specifically for conferences with the minor and staff. Parental involvement is perhaps one of the most positive aspects of operating the diagnostic unit locally in that many family problems can be worked through and those that cannot be resolved can be identified.

GUIDANCE CLINIC

The work of the Guidance Clinic is administered through the Alameda County Health Care Service Agency to assist the Probation Department by providing psychological services to its minor and adult clients.

The clinic is staffed by psychiatrists, clinical psychologists, and psychiatric social workers and provides case consultation to deputy probation officers from all divisions of the Probation Department. In special cases the clinic provides written reports, psychotherapy, diagnostic evaluations and referrals to community based mental health services. Fees are charged for services based on the individual family's ability to pay.

REFERRALS TO THE PROBATION DEPARTMENT.

Sources of Referral: Common sources of referral to the Probation Department are the police agencies, parents, schools and other courts with the large majority of cases being referred by the police. As has been discussed, the police refer cases through the Notice to Appear or by delivering the minor in custody. Due to the fact that there is essentially no time limit on processing the Notice to

Appear, the first responsibility of Juvenile Probation is to consider the case of the youngster who is delivered in custody.

Other courts are a source of referrals to the Probation Department. Juvenile Courts throughout the state and country will sometimes refer a minor to the Juvenile Court when it is discovered that the family is living in Alameda County. Also, a Superior Court or Municipal Court is required to certify (transfer) a matter to Juvenile Court if the person before them is found to be under 18 (604 W & I Code).

All traffic citations issued to juveniles by law enforcement agencies in Alameda County are referred to the Probation Department. The majority of these citations are handled in a hearing before a traffic hearing officer at the direction of the Juvenile Court. The traffic hearing officer is normally a senior deputy probation officer. All traffic violations declared to be felonies under the law are heard by the Court. The traffic hearing officer may also on aggravated cases or serious misdemeanor cases direct the probation officer to file a petition for a hearing before the Court. The probation officer must prepare a report if the matter goes to Court.

Types of Cases Referred: With girls the most common forms of misconduct (other than traffic violations) are leaving home without permission and remaining away, incorrigibility, and sexual misconduct. Possession and use of dangerous drugs has become much more common and is a problem. The misconduct generally falls within Section 601 of the W & I Code (see page 3). Girls are also referred for burglary, auto theft, battery and other offenses, but at least 60 per cent of girls' cases involve incorrigibility and sex misconduct. Many of these 601 cases are now referred to the Family Crisis Intervention Unit (see page 13).

The most common offenses for boys (other than traffic violations) are theft, auto theft, burglary, incorrigibility, battery and robbery. Possession and use of dangerous drugs and chemicals remains a serious problem among male youth as throughout many segments of our population.

Traffic offenses are not usually thought of as the major source of referrals to Juvenile Probation but each year at least 14,000 minors (about 12,000 boys and nearly 2,000 girls) are issued citations. The most frequent referral is for speeding but the range is from jay walking and driving without a license to hit and run and driving under the influence of drugs or alcohol. Seldom do these matters reach Juvenile Court but are disposed of by the traffic hearing officers (see page 27).

INITIAL PROCESSING OF JUVENILE REFERRED TO PROBATION.

Custody or Release of the Minor:

When a minor is delivered in custody to the Probation Center or Juvenile Hall, the probation officer must do the following (Section 628 W & I Code):

1. Immediately investigate the circumstances of the minor and the facts surrounding the decision for custody.
2. Immediately release such minor to the custody of the parent, guardian, or responsible relative unless one or more of the following conditions exist:
 - a. The minor is in need of proper and effective parental care or control and has no parent, guardian, or responsible relative willing to exercise or capable of exercising such care or control; or has no parent, guardian, or responsible relative actually exercising such care or control.
 - b. The minor is destitute or is not provided with the necessities of life or is not provided with a home or suitable placement of abode.
 - c. The minor is provided with a home which is an unfit place by reason of neglect, cruelty, or depravity of either of the parents, or of the guardian or other person who has responsibility for custody or care.
 - d. Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor or the person or property of another.
 - e. The minor is likely to flee the jurisdiction of the court.
 - f. The minor has violated an order of the Juvenile Court.
 - g. The minor is physically dangerous to the public because of a mental or physical deficiency, disorder or abnormality.

The probation officer must release the minor to the parents if none of the above circumstances exist. The release may be on the condition that the minor and parent promise to meet with the probation officer later for continued investigation (Section 629 W & I Code).

Minors shall be released from custody 48 hours after being taken into custody (arrested) excluding non-judicial days unless within that time petitions (described on page 23) to declare them wards or dependent children have been filed (Section 631 W & I Code).

Additionally, if a minor is held in custody by the probation officer for more than six hours without filing a petition, and the minor is later released, the probation officer must send a letter to the parents, guardians or custodians of the minor explaining why the minor was held for such a period. This letter must be prepared within 72 hours after release and a copy filed in the case folder (Section 631 W & I Code).

Intake Processing of Minors in Custody:

The Probation Department intake process begins promptly for the minor who is delivered in custody to the Probation Center or Juvenile Hall. In Alameda County, in order to guarantee that the minors receive a speedy hearing, and that they not be held in custody unnecessarily, there is a senior deputy probation officer always on duty weekdays from 8:30 a.m. until 1:30 a.m. and weekends and holidays from 9:00 or 9:30 a.m. until 1:30 a.m. the following day. Additionally, on Saturdays there is a deputy probation officer on intake duty.

During the regular work day after a minor has been delivered to the Probation Department, the youth is seen immediately by a deputy probation officer who becomes familiar with the known facts of the case, contacts the parents or guardian of the minor and advises them of the Constitutional Rights of their son or daughter and then interviews the minor. Minors are immediately informed that they do not have to say anything, that what they say will be used as evidence in court, that they can be represented by an attorney, that if they cannot afford an attorney, the court will appoint one for them, and that they can have an attorney present with them during all questioning. At this point, if the minors ask for an attorney and do not want to make a statement, they are not questioned about the offense; if, however, they desire to make a statement, they can. Whether or not the statement or admission can be used in court depends on the minors' ability to understand their Constitutional Rights as told them by the deputy probation officer.

After the initial interview with the youth and after clarifying, if necessary, any points of the case with police, parents, or other interested parties, the deputy probation officer will discuss the case with a senior deputy (supervisor) and agree upon the proper immediate action or disposition (see page 22 for Probation Dispositions). The advice of the deputy district attorney is sought regularly as part of the decision making process, especially in matters involving serious law violations.

On Saturdays, Sundays and holidays, there is one senior deputy probation officer on duty to handle the intake of minors into custody. Eight-hour shifts cover the time period between 9:00 a.m. until 1:30 a.m. Saturdays, 9:30 a.m. until 1:30 a.m. on Sundays and holidays, and between 4:30 p.m. and 1:30 a.m. on weekdays. It is the job of the senior deputies to make the decisions as to immediate action or disposition of the case (see page 22 for Probation Dispositions). This senior has an office at the Probation Center and therefore the probation officer and counselor staff located at Juvenile Hall must contact the senior deputy at the Probation Center who, after discussing the circumstances of the case, will approve a decision to hold in custody or immediately release the person.

This senior deputy does not file petitions. When a minor is held overnight, on the next regular working day following the minor's delivery to the Probation Department, the case is assigned to a deputy probation officer I or II who then will follow through with the case and file a petition if necessary.

PROBATION DISPOSITIONS:

The dispositions discussed below can be decided by a deputy probation officer at any stage of the investigation.

General Alternative Preliminary Probation Dispositions:

Once the minor has been formally referred to the probation officer either in custody or by an NTA, or informally by a parent or school official on a "drop in" basis, there are several alternative preliminary dispositions. If there appears to be no offense or if there is a lack of sufficient evidence of misconduct, the minor is released without action and the matter is closed due to insufficient evidence. If misconduct exists, the minor can be released and the matter closed without action following a reprimand and warning.

The matter may be referred to the Family Crisis Intervention Unit where family conflicts are evident (see page 13).

The minor may be released on informal probation by the deputy probation officer with the consent of the parents for a period not to exceed six months. The period of informal probation can be revoked and the probation officer may file a petition at any time within the six-month period if the minor continues in his community misconduct (Section 654 W & I Code).

Referral for Drug School is also an available disposition to the probation officer for both wards and non-wards should involvement with drugs be determined (see below). The minors may also be given a conditional release by the deputy probation officer to their parents pending further investigation. If a petition is filed and a court date set, it is possible to release the person to a parent or guardian until the court date (referred to as an O.R. or release on one's own recognizance). Finally, a petition and request for holding order may be filed in the minor's behalf to ask the court at a detention hearing to hold the minor in custody pending the court hearing (see page 24).

The Probation Department Drug School's goal is to build alternatives to drug abuse by education of the youths and their families in the medical, psychological, social and legal aspects of drug abuse. Through a program of group discussion and relevant outside instructors, the project fosters an awareness of and appreciation for alternative routes for self-awareness, self-fulfillment, self-appreciation and pleasure. An important technique used in the program is the mutual involvement of parents and children in a setting in which they can increase their awareness of each other's problems in order to improve understanding and communication.

Candidates for the Drug School are drawn from early offenders, both Juvenile Court wards and non-wards. A further development in January of 1973 was the inclusion of plans for a special Drug School program for highly motivated participants referred by word of mouth by police agencies. The word of mouth referrals evolved from the desire by police agencies to provide assistance to young people with minor drug problems for whom no legal basis for arrest existed.

The Drug School meets weekday evenings between 7:00 p.m. and 9:00 p.m. in locations in both Southern and Northern Alameda County. The program runs six weeks. Guest lecturers include a law enforcement officer, a local physician, a practicing attorney and one or more former narcotic addicts.⁸

Dispositions in juvenile traffic matters are based on Section 564 of the W & I Code and minute orders issued by the Presiding Judge of the Juvenile Court. The traffic hearing officer may hear and dispose of all traffic cases on minors except felony violations. As a result, traffic hearing officers dispose of such serious matters as reckless driving and driving under the influence of drugs and alcohol. The disposition of the traffic hearing officer may be appealed to the Judge of the Juvenile Court.

The Judge, Referee, or traffic hearing officer can make the following dispositions (564 W & I Code) in reference to traffic, fish and game, or harbor and navigation offenses:

1. Reprimand the minor and take no further action.
2. Direct the probation officer to file a petition as provided for in Article 7 (commencing with Section 650 W & I Code) of this chapter.
3. Make any or all of the following orders:
 - a. That the driving privileges of the minor be suspended or restricted for a period not to exceed 90 days.
 - b. That the minor attend traffic school over a period not to exceed 60 days.
 - c. That the minor pay to the General Fund of the County a sum not to exceed \$50.
 - d. That the probation officer undertake a program of supervision of the minor for a period not to exceed six months.
 - e. That the minor work in a city park or recreation facility or regional park for a period not to exceed 25 hours over a period not to exceed 30 days, during times other than hours of school attendance. This order must be approved by the Juvenile Court.

The Department of Motor Vehicles must be notified of all findings and orders (565 W & I Code).

JUVENILE COURT PETITION:

The Juvenile Court petition (called complaint in the Adult Court) is the document that brings the case before the court. Except when a minor wilfully misrepresents himself as 18 or more years of age he must be released within 48 hours after having been taken into custody, excluding non-judicial days (Saturdays, Sundays, and legal holidays) unless within this period of time a petition is filed. (631 W & I Code).

If a minor wilfully misrepresents himself to be 18 or more years of age when taken into custody and this effects a delay in filing the petition, a petition must be filed within 48 hours from the time his true age is determined excluding non-judicial days (631.1 W & I Code).

If the minor is not in custody the petition should be filed as soon as possible if a court appearance is deemed necessary but does not have to be filed within 48 hours of the arrest.

As noted earlier, the advice of the deputy district attorney is sought regularly in determining the correct allegations to file in the petition. Should the petition not be filed within the time limit, the minor will be released immediately. The petition is the only document that legally frames the issues for the court and the parties in the matter. This is the legal procedure that commences the proceeding in the Juvenile Courts (Section 650 W & I Code). Among the facts that the petition must have is a concise statement of facts, separately stated to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subsections under which proceedings are being instigated (656 W & I Code). The petition can be signed only by the probation officer. The police or private citizen cannot sign a petition but can make an application for a petition and the probation officer can then determine whether or not a petition should be filed (653 W & I Code). Then, if a petition is not filed, the applicant may apply to the Juvenile Court within one month for a review of the probation officer's decision not to file the petition (655 W & I Code).

DETENTION HEARING:

The law requires that the Juvenile Court rule whether a minor should be detained pending further hearing on the matter. Once a petition has been filed on a minor in custody, the minor must be brought before the Judge or Referee of the Juvenile Court for a detention hearing within 24 hours, excluding non-judicial days, or be released from custody (Section 632 W & I Code).

The probation officer shall notify the parents of the minor of the time, date and place of the detention hearing. This may be done orally (630 W & I Code). At the detention hearing the court must do the following:

1. Inform the minor and minor's parents or guardian of the reasons why the youth was taken into custody (Section 633 W & I Code).
2. Explain the nature of the hearing and of Juvenile Court proceedings (633 W & I Code).
3. Explain that the hearing is to determine continued detention.
4. Explain rights of the minor and his parents to have counsel. If they desire a lawyer and cannot afford it the public defender is appointed (633 W & I Code) (refer to page 29 regarding Legal Counsel and the Juvenile Court).

The court shall order the minor released from custody unless it finds the minor can be described by at least one of the following (635 W & I Code):

1. Violated an order of the Juvenile Court.
2. Escaped from the commitment of the Juvenile Court.
3. It is a matter of immediate and urgent necessity for the protection of such minor or the person or property of another that he be detained.
4. The minor is likely to flee the jurisdiction of the court.

The above reasons for detention are similar to the ones that the intake probation officer has already used to determine that the minor should be held (see page 19 or 628 W & I Code). The court at the detention hearing is in fact having a judicial review of the probation officer's findings as for reason for detention. This then assures the minor of two determinations as to the need for detention, one by the probation officer (Section 628 W & I Code) and one by the court (635 W & I Code), both using the same statutory criteria for continued detention. The court does not consider guilt or innocence at this hearing. The court may hold a detention hearing if the parents are not present, but the absent parents may file an affidavit with the court clerk and a re-hearing shall be held within 24 hours (637 W & I Code). Upon the motion of the minor, the parents or the attorney, the court must continue a detention hearing for one judicial day (638 W & I Code).

Should the court determine to hold the minor in custody for one of the reasons already stated, it must schedule the hearing on the jurisdiction and disposition within 15 judicial days as that is the legal limit a minor can be held before the judicial hearing is initiated (657 W & I Code). If the minor is not in custody, the judicial hearing on the matter must be scheduled within 30 calendar days.

INVESTIGATIONS AND PREPARATION OF JUVENILE COURT REPORTS:

Investigation: Investigation deputies, whether in the Juvenile Investigation Section or the Hayward-Fremont Section (see pages 12-13), generally receive all referrals to the Probation Department, whether police referrals (book into custody or NTA) or from such other sources such as relatives, parents, Welfare and Health agencies, etc. Investigation units then determine where the investigations should be carried out and transfer the cases for investigation and disposition determination. These deputies complete the investigations on new cases whether book-ins or NTA's, where the minor is referred to the Probation Department for the first time or on new referrals where the minor is no longer on probation as the previous matter has been closed.

Investigations on new referrals for youth already on probation are usually carried out by the Supervision Deputies in the Juvenile Supervision Section, Hayward-Fremont Section or by deputies in the Placement Unit of the Special Programs Section who are presently supervising the youngster, except for the following circumstances: Investigation deputies will usually be assigned the investigation of a case where the minor is already a ward of the court if the offense is extremely serious (murder, armed robbery, many counts of burglary, etc.), or when there are several co-participants, wards and/or non-wards, and it is deemed more efficient to have one investigation deputy handle the investigation on all of the cases.

Juvenile Court Reports:

As soon as the petition is filed and the court date set, the deputy probation officer must complete the investigation into the jurisdictional and social aspects of the case and prepare a report and recommendation to the court. The Jurisdictional Section of the report sets forth the facts of the law violation alleged in the petition, including facts as related by victims, witnesses, police, etc., and when available, a statement of the minor regarding the offense. The Social Study Section includes all factors relating to the minor, the family and their interaction. The recommendation to the court concerns the disposition of the matter as predicated upon the best plan developed for the welfare of the child.

JUVENILE COURT

PHILOSOPHY:

The Juvenile Court philosophy has begun to change in the last few years due to various legal decisions of the United States Supreme Court and State Courts.

"Gault, the first Juvenile Court case to reach the U. S. Supreme Court in 1967, followed by the Kent, Winship, DeBacker, Whittington and McKeiver cases, completely altered the procedures, the structure, and the role of the Juvenile Court in the administration of juvenile justice. California Supreme Court cases, Appellate decisions and annual statutory revisions literally rewrote the Juvenile Court Law in California. The year 1973 finds the Juvenile Court jurisdiction aspects almost identical to adult criminal court procedure. All the rules of criminal evidence as to exclusion and admissibility, to the competency and relevancy, and to the weight and credibility now apply. Defense advocacy and prosecution by the district attorney in contested matters also apply (defense counsel will be provided through public funds for those unable to pay). The only two elements lacking are the exclusion of bail and right to a jury trial." ⁹

Despite changes in legal practices, the Juvenile Court still retains an underlying philosophy derived from the English Common Law concept of Parens Patriae (father of his country). The king was the "father" and protector of all incompetents such as the insane, feeble-minded and minors. It was inherent in his power to care for their best interests. This power eventually became vested in the English courts of Equity or Chancery.

The United States Juvenile Courts adopted some practices of English Common Law reflected in the following which have been and still remain goals of the Juvenile Court.

1. To protect the child.
2. Rehabilitate and not punish.

3. Substitute partial or full custody and control of the minor in the court instead of in the natural guardian if deemed necessary.
4. All action to be for the best interests of the child.

In California, the "father figure" concept of the Juvenile Court Judge has been modified by making the process more formal and legalistic but as a result minors now have more legal protection. It is hoped that the added legal protection, coupled with the influence of Juvenile Court philosophy, will help the Juvenile Court in the administration of justice to youthful offenders.

JUVENILE COURT JUDGE:

Judge: A Superior Court Judge is appointed Presiding Judge of the Juvenile Court. Each year one or more judges of the Superior Court in each county is designated to act as a Juvenile Court Judge (Section 551 W & I Code). The Judge of the Juvenile Court may appoint one or more referees to serve on a full-time basis.

Referee: The Referees must be admitted to practice before the Supreme Court of California, shall have been admitted to practice law in the state for not less than five years or in any other state and this state for a combined period of not less than 10 years (Section 553 W & I Code). Prior to September 5, 1961, Referees could be appointed if they were members of the California Bar for at least five years, or had five years experience in probation work at the supervising level, or a combination of either totaling five years. Referees appointed prior to the law change can remain Referees. A Referee serves at the pleasure of the appointing Judge and continues to serve until a successor is appointed.

The Referee is vested with whatever powers and duties are assigned by the Juvenile Court, subject to the rule that no minors may be removed from their own homes by the Referee's order until approved by the Juvenile Court (Section 55 W & I Code). The parent and minor have a right to appeal a matter decided by a Referee to the Judge of the Juvenile Court.

Traffic Hearing Officer: The Juvenile Court Judge may also appoint one or more traffic hearing officers (Section 561 W & I Code). The Referee can be assigned this duty or it can be a separate position. The traffic hearing officer is then acting in quasi-judicial capacity with powers, subject to review by the court, to adjudicate and dispose of all misdemeanor traffic violations alleged to have been committed by a minor under 18 years (see page 19, traffic citations).

JUVENILE JUSTICE COMMISSION:

The Alameda County Juvenile Justice Commission is a legally formulated body (Section 525-530 W & I Code) which meets once each month and consists of not less than seven members who serve four-year terms. The members are appointed by the Presiding Judge of the Superior Court with the concurrence of the Judge of the Juvenile Court.

The duty of the commission is to investigate into the administration of the Juvenile Court Law within the county. It seeks to lead in the development of needed personnel, services (including casework) and youth treatment facilities for the Probation Department. Specifically, the commission inspects at least once yearly the Juvenile Hall and all camps, homes, or lock up facilities where any minor is confined for more than 24 hours. The commission reports its findings to the Juvenile Court and to the California Youth Authority and recommends changes. The commission may advise the Judge and probation officer on policy, on setting standards, on program development and on budget presentation. It also serves the role of interpreter between the Probation Department and the public, and proposes legislative changes when needed.

DELINQUENCY PREVENTION COMMISSION:

The Delinquency Prevention Commission is established under the provisions of Section 535.5 of the Welfare and Institutions Code. Membership, now numbering 17, is by appointment of the Presiding Judge of the Juvenile Court with confirmation of the Superior Court bench. In general, the goal of the commission is to devise plans and programs to prevent the incidence of delinquent behavior, to promote interest and motivate private individuals and groups in community efforts to assist children and youth, and to help agencies which work with delinquent minors to the end that their services and programs will function adequately.

The commission's continued intent is to explore and identify gaps in services related to social problems as they pertain to delinquency and to suggest to or advise existing agencies of ways of ameliorating these problems. The commission publishes the very popular periodical, "Straight Stuff," which is designed as an educational aid, calling attention to issues relating to crime and delinquency.¹⁰

LEGAL COUNSEL AND JUVENILE COURT:

If the minor is alleged to have violated 601 or 602 of the W & I Code, the court shall appoint counsel if counsel has not already been retained, whether the minor is unable to afford counsel or not, unless there is an intelligent waiver by the minor. "Parents cannot waive minors' Constitutional Rights" (in re Daniel R., 276 CA 2d 822, 1969). If the minor does not waive (give up) the right to counsel and the court determines that the parent or guardian has the ability to pay, the court shall appoint counsel at the expense of the parent or guardian. If it appears to the court that there is a sufficient conflict between parents or guardian and the minor that one attorney could not represent both, the court will appoint additional counsel to represent the minor (634 W & I Code).

The Juvenile Court Judge of Alameda County has ruled that all minors referred to Probation under Section 602 W & I Code, who are not already represented by an attorney, will receive legal services from the public defender during the investigatory process, whether or not a petition is finally filed. The public defender will also represent all minors in any hearings before the Judge or Referee of the Juvenile Court. The public defender is authorized to withdraw if parents secure private counsel for the minor, or if the court determines the minor has intelligently waived the right to counsel.¹¹

The court must appoint counsel, when a case involves minors falling within Section 600d, which alleges the home is an unfit place for them by reason of neglect, cruelty, depravity, or physical abuse of either parent or guardian or other person in charge of their custody. When such a minor appears before the court at a detention hearing, the court shall appoint counsel. The court may appoint the district attorney to represent the minor pursuant to Section 681 W & I Code and the counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the Juvenile Court (Section 634.5 W & I Code). Case law indicates that even though the parent of an alleged dependent child is indigent and desires counsel, the court is under no obligation to appoint counsel to represent the parent. (In re George S. 18 CA 3d 788, 1971). "There is no requirement that the parent of a dependent child be provided counsel by the Court." (In re Joseph T. Jr., 25 CA 3d 120, 1972).

JURISDICTION OF THE JUVENILE COURT:

The Juvenile Court process begins with the filing of the petition or supplemental petition (in the case that a person is already a ward, any action after that is considered supplemental) in the court by the probation officer and no one else (other than the Juvenile Court Judge). It makes no difference where the act takes place, but the court may take jurisdiction if one of the following is present: (1) if the act took place in the county where the petition is filed; (2) if the child resides in that county; (3) if the minor is physically present in the county (651 W & I Code).

The original jurisdiction of the Juvenile Court may extend to any person who comes within the description of Sections 600, 601, and 602 of the W & I Code while under 18 years of age. No other court has authority to conduct a preliminary examination or to try the case involving a minor except at the order of the Juvenile Court. Therefore, if for one reason or another a case appears before a court other than the Juvenile Court, proceedings must be suspended, and the matter certified to Juvenile Court (Section 604 W & I Code). The Juvenile Court may retain jurisdiction over any person adjudged a ward of the court until that ward or dependent child is 21 years of age (607 W & I Code).

Remand to Municipal Court: The Juvenile Court may, at its own discretion or at the request of the probation officer, determine that certain juveniles who were 16 years of age or older at the time of the alleged offense (601 or 602 violations) for practical reasons are unfit for Juvenile Court and remand them to Municipal Court for criminal prosecution as an adult (707 W & I Code). The offense, alone, shall not be reason enough to support a finding that a minor is unfit, nor is a denial of any or all of the facts stated in the petition sufficient to sustain a finding that the minor is unfit (Section 707 W & I Code). The court must also require the probation officer to investigate and submit a Behavioral Report (Behavioral Study) on the youth when a determination of unfitness is being considered (Section 707 W & I Code).

Behavioral Report: The W & I Code does not establish criteria for the Behavioral Report. The following areas are generally considered: (1) nature of offense (sophistication and seriousness, i.e. armed robbery, murder); (2) previous misconduct; (3) recorded previous probation or parole supervision, or institutional

placement (Chabot Ranch, Las Vistas, California Youth Authority Institution); (4) employment status; (5) school attendance; (6) independent living arrangement; (7) marital status; (8) mental, emotional and physical appearance; (9) associations (adult and juvenile); (10) how minor views self and the environment frequented.

Examples of Possible Remand Cases: One case that might be considered for remand would be that of a 16-year-old boy who has been before the court nine times since the age of 13 when he was first placed on probation in his own home after a finding of burglary was made. At 14 he was committed to Chabot Boys' Camp due to continued burglaries; committed to Senior Boys' Camp at 16 due to continued violations of probation after being returned to probation to live in his own home. At 16, the boy was committed to the California Youth Authority due to running away from camp. Now at the age of 16, he appears for violation of parole and three counts of auto theft. Due to his previous delinquent history, his failure on juvenile probation and parole, and to the serious nature of the present offense, he might be considered an unfit subject for Juvenile Court.

Another case that might be considered a proper matter for adult processing and not for Juvenile Court would be that of a minor who is a member of the Armed Forces and commits a burglary while on a weekend pass.

JUVENILE COURT HEARING:

The Juvenile Court hearing is divided into two parts, the jurisdictional section and the dispositional section, and they may be held at the same or separate hearings. The jurisdictional hearing must be held within 15 judicial days of the detention hearing (a judicial day is any day except Saturdays, Sundays or holidays), if the minor is in custody and within 30 calendar days if not. The court makes three judgments in each case: the jurisdictional, the dispositional as to status of the minor, and the dispositional as to the care of the minor. As indicated above, the "jurisdictional judgment" upholds or denies that the allegations of the petition are true.

The Juvenile Court hearing on jurisdiction or disposition is a special session, closed to the public and only the minor, parents, relatives, witnesses and counsel shall be permitted to attend (Section 675 W & I Code). The Judge or Referee may allow other persons in whom are deemed to have direct and legitimate interest in the case (Section 676 W & I Code). The hearing is conducted in a formal atmosphere especially in 602 matters where there is a contested issue of fact or law, but efforts are made to maintain a non-adversary atmosphere whenever possible.

Jurisdictional Hearing:

The jurisdictional hearing is to decide whether the minor is responsible for the allegations of the petition. Proof beyond a reasonable doubt supported by evidence legally admissible in the trial of criminal cases must be found to support a 602 allegation. A preponderance of evidence is enough to support a 600 or 601 allegation (701 W & I Code).

Juvenile Court proceedings have traditionally been considered "civil" or non-criminal in nature. There is no question but that this attitude still prevails in cases involving 600 W & I Code matters, and is generally true with 601 matters. Juvenile Court hearings on 602 W & I Code matters, however, are increasingly referred to as "quasi-criminal proceedings" in recent appellate court decisions (see Juvenile Court Philosophy). This changing attitude is due to the fact that rules of evidence are the same as in the criminal process, that proof beyond reasonable doubt is required, and that the dispositions available to the court, including removal from the home and commitment to a public or private institution can have great impact on the minor's life.

Disposition Hearing:

The dispositional hearing comes after the court makes a finding on jurisdiction and decides the minor comes under Section 600, 601 or 602 of the W & I Code. The court now considers evidence under the "social study" section of the court report. This clarifies what happens to the minor after leaving court. The social study reviews the minor's previous history of referrals to police or probation. It also considers the family background, minor's background, interests and activities, minor's school progress, adjustment in Juvenile Hall if had been in custody, medical history, and a psychological report if ordered. The material is evaluated and a recommendation as to disposition is made to the court by the probation officer.

Types of Court Dispositions: Once the finding is made, the court may do one of the following: (1) place minor on six months probation without wardship if finding comes under 601 or 602 (Section 725 W & I Code); (2) declare minor a ward of the court under 601 or 602; (3) declare minor a dependent child under 600a, b, c, or d; (4) reprimand minor and dismiss the case.

1. Six months probation without wardship: If minors have been placed on six months probation without wardship, they must be allowed to live in the home of their parents or guardian. The court cannot remove children from their homes unless they have been declared wards or dependent children. The minor is automatically dismissed from probation after six months. As an additional condition of probation, the youngster may be required to attend Drug School (see page 22), Weekend Training Academy (see page 16), pay restitution and/or carry out additional orders issued by the Judge.
2. Declared a ward of the court: When minors have been declared wards of the court the following may occur:
 - a. The Court may return the minors to their own homes with their care, custody, control and conduct under the supervision of the probation officer. In Alameda County, the supervision of these minors is usually done by deputies in supervision units or the terminal leave unit of the Probation Department Juvenile Division. Some of the units have special intensive supervision programs for multi-problem cases.

- b. Commit the minors to a county facility. The possibilities include: Intensive Treatment Unit for 90-day observation, Las Vistas, Chabot Ranch and Senior Camp (see pages 16 - 18 for description of facilities).
- c. Place the minors in suitable foster homes or private institutions (see pages 13-15 regarding Placement Unit). The Placement Unit deputy probation officers keep track of those placed and try, through supervision, to work out the problems of the young people and their parents so that they may be reunited
- d. Commit the minors to the California Youth Authority if he or she appears in court for violation of a criminal statute (Section 602 W & I Code) or if he or she is already a ward of the court and the facts support the conclusion "That the previous disposition has not been effective in the rehabilitation of the minor." For example, the minor may have already failed on probation and at one of the county institutions.

The California Youth Authority is a state agency, but it has assumed a role in the county juvenile justice system due to the fact that it is the state's system of juvenile corrections. The director of the Youth Authority is appointed by the Governor and responsible to the Secretary of Human Resources. The purpose of the Youth Authority is set forth in Section 1700 of the W & I Code. It states "the purpose of this chapter is to protect society more effectively by substituting for retributive punishment, methods of training and treatment directed toward the correction and rehabilitation of young persons found guilty of public offenses." The Youth Authority has an extensive system of correctional institutions that offer a wide range of special programs for boys and girls of varying ages. The parole system reaches into all areas of the state and includes some special intensive programs for more difficult cases. The Youth Authority program includes a foster home placement service and has access to medical and psychological assistance for its wards.

- 3. Declared a dependent child of the court: Supervision of 600 cases (dependent) are carried out by child welfare workers from the Children's Protective Services Division of the Welfare Department (see page 10).

Sealing of Records:

In any case where a person under 18 years has been taken before any officer of a law enforcement agency, or the probation officer, or before the Juvenile Court on a petition filed under 600, 601 or 602 W & I Code, the person or the county probation officer may petition the court for sealing of the records, including records of arrest, records of referral and supervision by the probation officer and Juvenile Court records. The records can be sealed five years after the matter is closed by law enforcement, Probation or the courts, or at any time after the person has reached age 18 years, provided the matter has been dismissed and that rehabilitation has been attained to the satisfaction of the court. Once the record is sealed, the persons can properly state that they have never been arrested. The

purpose of this action is to clear the records of "rehabilitated" young people so that their record of juvenile misconduct will not hurt them in adult life (728 W & I Code).

A person under 18 years who is remanded to Municipal Court to be processed as an adult (see page 30), is no longer eligible to be considered for sealing of records as a minor under 781 W & I Code. The sealing of adult records comes under Section 1203.45 of the Penal Code of California. This section has limited application. It does not apply to persons who have been convicted of crimes under Section 290 of the Penal Code (relating to sex offenses) or violations of Division 10 (beginning with Section 11000) of the Health and Safety Code related to drug offenses, or to misdemeanor Vehicle Code violations.

Any person under 18 years at the time of the commission of a misdemeanor who is eligible under Sections 1203.4 and 1203.4a of the Penal Code to have a guilty verdict changed to not guilty following completion of a court ordered sentence of confinement and/or probation is eligible to have the record sealed. Thereafter, such conviction, arrest, or other proceeding shall be considered not to have occurred, and the person can deny being arrested on that offense (1203.45 of the Penal Code).

FOOTNOTES

1. The Challenged Crime in a Free Society, a report by the President's Commission on Law Enforcement and Administration of Justice, United States Government Printing Office, Washington, D. C., February, 1967, page 78.
2. Warren E. Thornton and Max C. Rose, Philosophy and Procedures in Juvenile Court, published by the California Department of the Youth Authority, April, 1973, page 13.
3. Thornton and Rose, page 12.
4. Oakland Police Department, Youth Services Division, Administrative Directive #73-4.
5. Oakland Police Department, Youth Services Division, Administrative Directive #73-4.
6. Oakland Police Department, Community Resources Manual.
7. Juvenile Hall, a pamphlet, revised June 21, 1973.
8. The Alameda County Probation Department, Philosophy and Services Manual, 1973, page 12.
9. Thornton and Rose, page 9.
10. Annual Report, 1972, County of Alameda, County Human Resources Agency, Probation Department.
11. Alan A. Lindsay, Superior Court Judge, Minute Order. "Directing the Public Defender of Alameda County to Render Legal Services to Minors," July 21, 1971

